



CITY OF SAN DIEGO

CHAIRPERSON'S REPORT

TO THE:

CITY COUNCIL STRONG MAYOR-STRONG COUNCIL TRANSITION COMMITTEE

Scott Peters, District 1, Chair
District 2 - Vacant
Toni Atkins, District 3 Councilmember
Tony Young, District 4 Councilmember
Brian Maienschein, District 5 Councilmember
Donna Frye, District 6 Councilmember
Jim Madaffer, District 7 Councilmember
District 8 - Vacant

DATE: September 27, 2005

ATTENTION: City Council Transition Committee
Meeting of September 28, 2005

SUBJECT: Recommendations by the San Diego Regional Chamber of Commerce
related to implementation of the Mayor-Council form of government

SUMMARY

Issues

1. How should recommendations requiring a further change to the City Charter be handled? (Chamber recommendations 1, 3 & 5)
2. Should the Chamber's recommendations related to the term of the presiding officer, the membership of committees and the ability to docket items directly to City Council be incorporated into the Permanent Rules of Council? (Chamber recommendations 2 & 4)
3. Should the intent of Charter Section 13 be incorporated into the Permanent Rules of Council? (Chamber Recommendation 1)

Issue #1

Several of the Chamber's recommendations are for additional changes to the City Charter beyond those included in Proposition F. It is anticipated that other groups will also make recommendations related to the Mayor-Council form of government that will require charter amendment. Some experience with the new form of government may be instructive to determine what needs to be changed and to avoid going to the ballot on multiple occasions. It also makes sense to coordinate any further charter changes into a process that is open, deliberative and logical given the five-year sunset provision of Proposition F.

Chair's Recommendation: Refer the issue of future charter changes (including issues raised in the Chamber recommendations 1, 3 & 5) to the Rules Committee for further discussion.

Issue #2

Two of the Chamber's recommendations relate previous decisions of the Strong Mayor Transition Committee: 1) the term of the President, 2) committee structure and 3) provisions for some types of legislation to be docketed without first being referred to committee. With respect to the President, the chamber recommends two-year non-renewable terms where the transition committee has recommended one-year renewable terms. The Chamber recommends that Council committees have five members as they do now where the committee has recommended 4-member committees. The chamber also recommends that all legislative matters be referred to committee before Council docketing, however, the legislative process endorsed by the Transition Committee anticipates that certain mandated items, land use issues which are subject to our existing land development review process and non controversial items in the discretion of the Council President be docketed directly to the Council agenda.

Chair's Recommendation: Retain the existing recommendations of the Transition Committee regarding the term of office of the Council President, the committee structure and number of members on each committee, and the ability to directly docket some items to the Council agenda.

Issue #3

The Chamber raises concerns that the intent of Charter Section 13 is not adequately incorporated into Proposition F. Today's Charter Section 13 entitled "Meetings of the Council" includes requirements that: the council meet at least once a week, keep a journal of its proceedings, make its meeting public, and contains provisions for the calling of special meetings. This section is superceded by Charter Sections 250-295 for the next 5 years. Much but not all of Charter Section 13 is required by state law (principally the Brown Act). To the extent that aspects of Charter Section 13 are

unique to San Diego, and not replicated in the superceding sections, they could at a minimum be added to the Permanent Rules of Council.

Chair's Recommendation: Direct the City Attorney to provide an analysis of the Charter Section 13 and superceding sections 250-295 and if needed incorporate the intent of Charter Section 13 into the Permanent Rules prior to their adoption by City Council. Further direct the City Attorney to provide a legal analysis of the broader implications of the deletion of Charter Section 13, the extent to which those provisions have been incorporated into superceding sections 250-295 or are already required by state law, and refer the issue to the Rules committee consistent with the recommendation in Issue #1.

DISCUSSION

The San Diego Regional Chamber of Commerce makes recommendations related to the transition to a Council-Mayor Form of Government. Their recommendations address: further changes to the charter, previous decisions of the strong Mayor Transition Committee, the relationship between the city and its agencies, and recommendations pertaining to the executive branch.

Discussion of Chamber of Commerce Suggestions:

1. The Chamber notes that unless changed, several Municipal Code Provisions will be in conflict with the new Mayor-Council form of government. Additionally, the chamber specifically notes that provisions contained in superceded Charter Section 13 are not replicated in the Charter Sections 250-295 in that there are none of the following are required: that the council to meet with any particular frequency, keep a journal of its proceedings, make its meeting public, nor provisions for the calling of special meetings.

Discussion: In addition to amending the Permanent Rules of Council, the City Attorney has prepared an omnibus ordinance amending the municipal code generally to substitute "Mayor" where "City Manager" appears. Both the Permanent Rules and the omnibus bill are the subject of today's item #2 and should address the majority of the inconsistencies that the Chamber notes. On the issues of Charter 13, the Chamber raises a valid concern. While, the provisions of Charter Sec. 13 can and should be added to the Permanent Rules of Council at this time, additional action should be taken to ensure that the intent of Charter Section 13 is not left to legislative discretion.

Recommendation: As a part of Item #2 today, direct the City Attorney to add the provisions of Charter Section 13 to the Permanent Rules of Council changing the reference to the Mayor in the 3rd paragraph of the section to read "Council President" prior to their adoption by City Council. Additionally, the City Attorney should provide a legal analysis of the implications of the deletion of Charter Section 13, the extent to which those provisions have been incorporated into superceding sections

250-295 or are already required by state law, and refer the issue to the Rules committee for thorough discussion of the need to reinstate some form of Charter Section 13 during the Mayor-Council Trial form of government.

2. The Chamber suggests that the Presiding officer serve a two-year term and be prohibited from serving two consecutive terms

Discussion: On June 2, 1005, the Strong Mayor Transition Committee voted to recommend that the Presiding officer serve a 1-year renewable term.

Recommendation: Retain the Strong Mayor Transition Committee Recommendation that the Council President serve 1-year renewable terms

3. The Chamber recommends that the Council override of a mayoral veto require six votes instead of five.

Discussion: This provision is governed by Proposition F and cannot be changed without a charter change and vote of the people.

Recommendation: This issue should be discussed as part of any proposed charter change related to Mayor-Council form of Government.

4. The Chamber recommends:
 - a. Committees have five members each instead of four.
 - b. Only issues which have gone through a committee be eligible for docketing to the full Council.

Discussion:

a. July 14, 2005, the Strong Mayor Transition Committee voted to retain the review process for quasi-judicial (generally land-use issue) currently used in the City today. This means that, as occurs today, land use matters which require Council action will go straight to Council without committee referral following their community review, hearing officer and/or planning commission review. Additionally, certain routine or non-controversial matters, in the discretion of the Council President, may be placed on the Council agenda directly without referral to committee. In addition to the decisions that the Strong Mayor Transition Committee has made, the Permanent Rules of Council also state that certain items on which action is mandatory under federal, state or local law, shall be placed directly on the Adoption agenda.

b. On July 14, 2005 the Strong Mayor Transition Committee voted to create five committees of four members each.

Recommendation: Retain the Strong Mayor Transition Committee recommendations with respect to a) the ability to put some items directly onto the Council agenda and b) the establishment of five committees with four members each

5. The Chamber recommends that the charter be amended to elevate the Legislative Analyst to a similar status as the Independent Budget Analyst (IBA) and that the Legislative Analyst be independent from and not a part of the Office of (IBA).

Discussion: Though the Strong Mayor Transition Committee has not explicitly recommended that the Legislative Analyst be subordinate to the IBA, at its August 4, 2005 meeting, the Strong Mayor Transition Committee directed staff to “immediately begin the hiring process for the IBA in anticipation that the IBA will establish the remaining structure for IBA & OLA and hire those positions.” This was viewed as the most expedient hiring process to get professional staff on board quickly. Specific structure of the IBA and OLA and their respective staffs remain within the control of the Council. Elevation of the OLA into a charter authorized position (similar to the IBA) would require a charter change and public vote.

Recommendation: None at this time. Proceed with plans to hire the IBA and work with that person to structure the balance of the IBA and OLA offices. Changing the status of the OLA within the charter requires a charter change which should be discussed as part of any proposed charter change related to Mayor-Council form of Government.

6. The Chamber observes that Proposition F did not adequately address the City’s agencies (redevelopment and housing) and recommends that once the Mayor is elected, he or she should designate a taskforce which includes participation by the City Council to draft clean-up legislation.

Discussion: The long-term structure of the City’s redevelopment agencies is currently the subject of ongoing discussion and review at the PS&NS committee. The Strong Mayor Transition Committee discussion of this items is more limited to devising a workable structure, which may or may not be permanent, to implement upon conversion of the structure of government on January 1, 2006. Item #3 on today’s docket is devoted to that issue.

Recommendation: This recommendation should be discussed in conjunction with Item #3 on today’s agenda

7. The Chamber recommends that Mayoral candidates designate representatives to discuss their vision for the role of the City Manager.

Discussion: This recommendation refers specifically to the Executive Branch and is directed to Mayoral Candidates.

Recommendation: None

8. The Chamber observes that there is no guidance in the Charter regarding the Mayor's role as an advocate for particular projects or initiatives which will be decided by the Council and that they will be forming an ad hoc committee to review and provide a further recommendation on this issue.

Discussion: This recommendation refers primarily to the Mayor's role as an advocate on particular issues as they come to legislative body.

Recommendation: None.

CONCLUSION

The Chamber of Commerce's recommendations fall generally into four categories: 1) recommendations requiring charter change, 2) commentary on previous decisions of the Strong Mayor Transition Committee, 3) issues related to the relationship between the Mayor, Council and the City's agencies and 4) issues related specifically to the executive branch of the Council-Mayor form of government. The Chair recommends that 1) changes to the charter be considered in a comprehensive manner to avoid piecemeal changes to the Charter, 2) the Strong Mayor Transition Committee stick with policy decisions it has already made, 3) the committee discuss issues related to City agencies in conjunction with today's item 3, and 4) refer to the new Mayor the issues raised referring specifically to the executive function under the new form of government.

Respectfully submitted,

Councilmember Scott Peters
Chair, Council Transition Committee